

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 12, 2009

Columbus Day

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 13, 2009

- D054197 Esquivel v. Workers' Compensation Appeals Board and Corrections Corporation of America San Diego Detention et al.**
The Board's order and decision are affirmed.
Nares, Acting P.J.; We Concur: O'Rourke, J., Aaron, J.
- D054693 In re S.E., a Juvenile**
The appeal is dismissed. Aaron, J.; We Concur: McConnell, P.J., Irion, J.
- D053731 Evans et al. v. Lasco Bathware, Inc., et al.**
The order is affirmed. Defendants are entitled to costs on appeal.
McDonald, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.
- D050137 People v. Baltazar**
The judgment is affirmed. McDonald, Acting P.J.; We Concur: Aaron, J., Irion, J.
- D054851 Cadwell et al. v. Owen**
Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately.

Court convened at 9:00 a.m.

Present: The Honorable Judith McConnell, Presiding Justice, and
 The Honorable Associate Justices Patricia Benke and James McIntyre
Clerk: D. Moore

- D054152 Woodall v. Kolender et al.**
Cause called on merits. Shawn James Woodall, argued appellant, in pro per, telephonically. James Chapin, Esq. was present in oral argument, but submitted on the briefs. Cause submitted.

Court recessed at 9:08 a.m. to change panel members.

New panel members: The Honorable James McIntyre, Acting Presiding Justice, and
 The Honorable Associate Justices Cynthia Aaron and Joan Irion

- D052754 People v. Haji**
Cause called on merits. John Evan Edwards, Esq. argued for appellant. Lilia Garcia, Deputy Attorney General, argued for respondent. Mr. Edwards replied. Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

October 13, 2009 (Continued)

D054249 AMCO Beauty Corp. v. Armstrong, McCall, LP. et al.

Cause called on merits. Nathan Joseph Sheridan, Esq. argued for appellant, AMCO Beauty Corp. David Laufer, Esq. argued for respondent, Riemer, etc. Terence L. Green, Esq. argued for respondent, SD Hair, Ltd. Mr. Sheridan replied. Cause submitted.

Court recessed at 10:06 a.m. to change panel members.

New panel members: The Honorable Judith Haller, Acting Presiding Justice, and
The Honorable Associate Justices James McIntyre and Cynthia Aaron

D053807 People v. Hernandez

Cause called on merits. Kurt David Hermansen, Esq. argued for appellant. Marcella McLaughlin, Deputy Attorney General, argued for respondent. Mr. Hermansen replied. Cause submitted.

Court recessed at 10:45 a.m. to change panel members.

New panel members: The Honorable Gilbert Nares, Acting Presiding Justice, and
The Honorable Associate Justices Judith Haller and James McIntyre

D053248 People v. Conturier

Cause called on merits. Laura G. Schaefer, Esq. argued for appellant. Vincent LaPietra, Deputy Attorney General, argued for respondent. Ms. Schaefer replied. Cause submitted.

Court recessed at 11:19 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Judith Haller, Acting Presiding Justice, and
The Honorable Associate Justices James McIntyre and Joan Irion
Clerk: D. Moore

D055515 People v. Garcia

Cause called on merits. Patricia Mary Ihara, Esq. argued for appellant. Raymond Mark DiGuiseppe, Deputy Attorney General, argued for respondent. Ms. Ihara replied. Cause submitted.

D054642 Johnson v. Pearce

Cause called on merits. William M. Benjamin, Esq. argued for appellant. Victor Augustus Mordey, Esq. argued for respondent. Mr. Benjamin replied. Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
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October 13, 2009 (Continued)

Court recessed at 2:13 p.m. to change panel members.

New panel members: The Honorable James McIntyre, Acting Presiding Justice, and
The Honorable Associate Justices Terry O'Rourke and Joan Irion

D053928 King v. King

Cause called on merits. P. A. Quint, Esq. argued for appellant.
Joshua J. Herndon, Esq. argued for respondent. Mr. Quint replied.
Cause submitted.

Court recessed at 2:47 p.m. to change panel members.

New panel members: The Honorable Judith Haller, Acting Presiding Justice, and
The Honorable Associate Justices James McIntyre and Terry O'Rourke

D053867 Roslyn Lane, LLC v. Ferrette, Alcorn, Pharies & Dorgan

Cause called on merits. Gregory D. Hagen, Esq. argued for appellant, Roslyn Lane.
Steven Warde Sanchez, Esq. argued for appellant, Ferrette, Alcorn, Pharies &
Dorgan, etc. Mr. Hagen replied. Cause submitted.

Court recessed at 3:23 p.m. to change panel members.

New panel members: The Honorable Judith Haller, Acting Presiding Justice, and
The Honorable Associate Justices Terry O'Rourke and Joan Irion

D053779 Stout v. Balboa Insurance Company

Cause called on merits. Linda J. Park, Esq. argued for appellant.
Kathryn Ashton, Esq. argued for respondent. Ms. Park replied. Cause submitted.

Court recessed at 3:55 p.m. until Monday, October 19, 2009 at 9:00 a.m.

D056025 Bays v. O'Rourke et al.

Request for Permission to Appeal by Albert O'Rourke received by this court on
October 13, 2009, is denied. (Code of Civ. Proc. § 391.7, subd. (b).) The appeal
filed with the Superior Court on September 28, 2009, by Albert O'Rourke is
dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 13, 2009 (Continued)

D056038 Snyder v. The Superior Court of San Diego County/Pacific Homes

The petition for writ of mandate and request for stay have been read and considered by Presiding Justice McConnell, and Associate Justices Huffman and McIntyre. Victoria Snyder filed this petition challenging rulings in two different actions -- one of which is an unlawful detainer proceeding in a limited case -- and requesting a stay of the October 14, 2009 trial in the unlawful detainer proceeding. A petition may not contest two different rulings in two different proceedings. Moreover, the challenge to the ruling in the limited case lies with the appellate division of the superior court. The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 14, 2009

- D052711 Urquhart et al. v. Del Mar Country Club, Inc.**
The petition for rehearing is denied.
- D054083 Somo et al. v. Larson et al.**
The orders are reversed and the matter remanded with directions that the trial court vacate its orders quashing service of summons and denying plaintiffs' motion to compel discovery and enter a new order denying the defendants' motion to quash service as to Larson. The trial court shall rule on plaintiffs' motion to compel discovery and, if granted in whole or part, allow plaintiffs to refile their opposition to defendants' motion to quash service as to the other director defendants. Plaintiffs shall recover their costs on appeal.
O'Rourke, J.; We Concur: Huffman, Acting P.J., Aaron, J.
- D053115 People v. Razo**
The judgment is affirmed. Aaron, J.; We Concur: McConnell, P.J., McDonald, J.
- D054036 People v. Miller**
The judgment is affirmed. O'Rourke, J.; We Concur: McConnell, P.J., Haller, J.
- D055478 Dominique S. v. Superior Court of San Diego County/San Diego Health and Human Services Agency**
The petition is denied. Benke, Acting P.J.; We Concur: McDonald, J., McIntyre, J.
- D054151 Beaumont v. PIMG, Inc.**
Upon written stipulation filed by the parties to the appeal, the appeals filed November 24, 2008, February 9, 2009 and January 27, 2009, are dismissed and the remittitur is ordered to issue immediately. Each party to bear own costs on appeal.
- D055822 A.C. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**
The attorney for petitioner A.C. has notified the court that a petition for writ of mandate under California Rules of Court, rule 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.
- D055966 Dorothy R. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**
The attorney for petitioner Dorothy R. has notified the court that a petition for writ of mandate under California Rules of Court, rule 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 15, 2009

D054631 People v. Banks

Upon filing an abandonment of appeal, the appeal is dismissed and the remittitur is ordered to issue immediately.

D054895 Youssofi v. Janan

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).)

D055423 Conservatorship of the Person of Christine L.

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.316.)

D055343 People v. Collins

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.316.)

D054498 People v. Harvey

The opinion filed September 24, 2009 is modified as follows:

On page 15, the first full paragraph, third sentence should read: It is reasonably likely that lay jurors would conclude that the trial court was instructing them that under the law, Harvey had "carefully weighed the considerations for and against his choice and, knowing the consequences, decided to kill," but they were required to decide whether Harvey's actions were willful and premeditated before making a true finding on the enhancement allegation. The petition for rehearing is denied.

D053586 Schuelke et al. v. Quinn

The judgment is affirmed. Darren Quinn is awarded costs on appeal.

O'Rourke, J.; We concur: Huffman, Acting P.J., Aaron, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
October 16, 2009

D052754 People v. Haji

The judgment of conviction on count 4 is reversed. Accordingly, we reduce Haji's sentence from 10 years to eight years in state prison. The trial court shall amend the abstract of judgment accordingly and forward an amended copy to the California Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed. Irion, J.; We Concur: McIntyre, Acting P.J., Aaron, J.

D053928 Estate of Jennings, Deceased

The order is affirmed. Irion, J.; We Concur: McIntyre, Acting P.J., O'Rourke, J.